

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 335 10th Street, Apt. B, Darby, PA 19023

Address of Defendant: 123 Justison Street, Suite 300, Wilmington, DE 19801

Place of Accident, Incident or Transaction: _____

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes No

Does this case involve multidistrict litigation possibilities?

Yes No

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes No

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes No

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes No

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes No

CIVIL: (Place in ONE CATEGORY ONLY)

A. Federal Question Cases:

- Indemnity Contract, Marine Contract, and All Other Contracts
- FELA
- Jones Act-Personal Injury
- Antitrust
- Patent
- Labor-Management Relations
- Civil Rights
- Habeas Corpus
- Securities Act(s) Cases
- Social Security Review Cases

11. All other Federal Question Cases

(Please specify) 47 U.S.C. § 227 et seq.

B. Diversity Jurisdiction Cases:

- Insurance Contract and Other Contracts
- Airplane Personal Injury
- Assault, Defamation
- Marine Personal Injury
- Motor Vehicle Personal Injury
- Other Personal Injury (Please specify) _____
- Products Liability
- Products Liability — Asbestos
- All other Diversity Cases

(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Craig Thor Kimmel, counsel of record do hereby certify:

- Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- Relief other than monetary damages is sought.

DATE: 06-09-15

Attorney-at-Law

57100

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 06-09-15

Attorney-at-Law

57100

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

MIRACLE LEE	:	CIVIL ACTION
v.	:	
NAVIENT SOLUTIONS, INC.	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

06-09-15

Date

215-540-8888 x 116

Attorney-at-law

877-788-2864

Plaintiff, Miracle Lee

Attorney for

kimmel@creditlaw.com

Telephone

FAX Number

E-Mail Address

**UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF PENNSYLVANIA**

COMPLAINT

MIRACLE LEE (“Plaintiff”), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against NAVIENT SOLUTIONS, INC. (“Defendant”):

INTRODUCTION

1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act ("TCPA").

JURISDICTION AND VENUE

2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

3. Defendant conducts business in the Commonwealth of Pennsylvania and as such, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

5. Plaintiff is a natural person residing in Darby, Pennsylvania 19023.

6. Plaintiff is a "person" as that term is defined by 47 U.S.C. § 153(39).

7. Defendant is a business entity with an office located at 123 Justison

Street, Suite 300, Wilmington, Delaware 19801.

8. Defendant is a "person" as that term is defined by 47 U.S.C.

§153(39).

9. Defendant acted through its agents, employees, officers, members,

directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

10. Plaintiff has a cellular telephone number that she has had for more than one year.

11. The phone number has been assigned to a cellular telephone service for which Plaintiff incurs a charge for incoming calls.

12. Plaintiff never gave permission to Defendant to call her cellular telephone.

13. Plaintiff never furnished Defendant with her cell number and never authorized Defendant to call her.

1 14. Beginning in or about August 2014, and continuing through
2 December 2014, Defendant called Plaintiff on her cellular telephone.
3

4 15. Defendant used an automatic telephone dialing system and automatic
5 and/or pre-recorded messages.

6 16. Defendant called Plaintiff looking for "Shaquan."

7 17. Plaintiff is not Shaquan, and Shaquan cannot be contacted by calling
8 Plaintiff's cellular telephone.
9

10 18. Upon information and belief, Plaintiff was listed as a reference on a
11 student loan application for "Shaquan."

12 19. Defendant's telephone calls were not made for "emergency purposes."

13 20. When Defendant called, Plaintiff told them to stop calling as she was
14 not Shaquan.
15

16 21. Defendant heard and acknowledged Plaintiff's request to stop calling
17 her cellular telephone.
18

19 22. Despite this information, Defendant's calls to Plaintiff continued and
20 became so invasive that Plaintiff added an App to her cell phone to log the call
21 times, dates, and originating phone number.
22

23 23. For example, Defendant called Plaintiff on: August 1, 2014; August
24 3, 2014; August 11, 2014; September 9, 2014; September 11, 2014; September 17,
25 2014; September 18, 2014; September 27, 2014; September 28, 2014 (twice);

1 October 8, 2014; October 9, 2014 (twice); October 13, 2014; October 14, 2014
2 (twice); November 10, 2014; November 11, 2014; November 12, 2014 (twice);
3 November 13, 2014; November 14, 2014; November 17, 2014; and December 10,
4 2014 (seven times).

5

6

7 **DEFENDANT VIOLATED THE**
8 **TELEPHONE CONSUMER PROTECTION ACT**

9 24. Plaintiff incorporates the forgoing paragraphs as though the same were
10 set forth at length herein.

11 25. Defendant initiated multiple automated telephone calls to Plaintiff's
12 cellular telephone using a prerecorded voice.

13 26. Defendant initiated these automated calls to Plaintiff using an
14 automatic telephone dialing system.

15 27. Defendant's calls to Plaintiff were not made for emergency purposes.

16 28. Defendant's calls to Plaintiff, in and after August 2014, were not made
17 with Plaintiff's prior express consent.

18 29. Defendant's acts as described above were done with malicious,
19 intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights
20 under the law and with the purpose of harassing Plaintiff.

30. The acts and/or omissions of Defendant were done unfairly, unlawfully, intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal defense, legal justification or legal excuse.

31. As a result of the above violations of the TCPA, Plaintiff has suffered the losses and damages as set forth above entitling Plaintiff to an award of statutory, actual and trebles damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, MIRACLE LEE, respectfully prays for a judgment as follows:

- a. All actual damages suffered pursuant to 47 U.S.C. § 227(b)(3)(A);
 - b. Statutory damages of \$500.00 per telephone call pursuant to 47 U.S.C. § 227(b)(3)(B);
 - c. Treble damages of \$1,500.00 per telephone call pursuant to 47 U.S.C. § 227(b)(3) or alternatively that amount for all calls made after Defendant was notified that they were calling the wrong person and wrong number;
 - d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3);
 - e. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, MIRACLE LEE, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

DATED: 06-09-15

KIMMEL & SILVERMAN, P.C.

By: _____
CRAIG THOR KIMMEL
Attorney ID # 57100
Kimmel & Silverman, P.C.
30 E. Butler Pike
Ambler, PA 19002
Phone: (215) 540-8888
Fax: (877) 788-2864
Email: kimmel@creditlaw.com